

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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JEFFREY DENTON, et al,  
  
Plaintiffs,  
  
vs.  
  
COLUMBIA MOTORS, INC.,  
  
Defendant.

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: CASE NO.  
: C-1-02-422  
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VOLUME II

Deposition of: ANDRE L. TUCKER  
  
Taken: By the Defendant  
  
Pursuant to: Agreement  
Date: December 26, 2002  
Time: Commencing at 10:10 a.m.  
  
Place: 830 Main Street  
Suite 999  
Cincinnati, Ohio 45202  
  
Before: S. Diane Farrell, RMR  
Notary Public - State of Ohio

COPY

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1 A. Yes.  
 2 Q. Did they have it over their head or how'd they  
 3 have it?  
 4 A. Their hands.  
 5 Q. Alongside their body?  
 6 A. Out like this.  
 7 Q. Okay. And how'd you come upon this situation?  
 8 A. I heard all the arguing from them, arguing with  
 9 my uncle. And he said he's not going to take this anymore,  
 10 so I --  
 11 Q. Who's not going to take this anymore?  
 12 A. My uncle said he's not going to take them  
 13 bothering him anymore.  
 14 Q. Okay. You heard Jeff Denton say, I'm not going  
 15 to take you guys bothering me anymore?  
 16 A. Yes.  
 17 Q. Now, did Jeff Denton have anything in his hand?  
 18 A. No.  
 19 Q. Had nothing in his hand?  
 20 A. Yeah, he might have had an order form, like a  
 21 piece of paper that they give you to work with.  
 22 Q. Okay. And so when you came upon this situation  
 23 where Watts, Fry, Scott Dick, Jason Dick and Harry had  
 24 your -- had Jeff Denton surrounded and had -- two of the

Page 23

1 individuals had pry bars in their hand, what did you then  
 2 do?  
 3 A. What did I do?  
 4 Q. Yeah. What did you do?  
 5 A. I moved them out of the way.  
 6 Q. You moved him out of the way, is that right?  
 7 A. I came in between them and pushed them out of  
 8 the way like that.  
 9 Q. Now, did you have anything in your hand?  
 10 A. In my hand?  
 11 Q. Yes.  
 12 A. I just had on some gloves because it was cold.  
 13 Q. So you didn't have any pry bar, crowbar or golf  
 14 club or anything else?  
 15 A. Why would I have a crowbar?  
 16 Q. I'm just asking you, did you have anything in  
 17 your hand?  
 18 A. Nothing but gloves.  
 19 Q. So the answer is you didn't have anything in  
 20 your hands, is that correct?  
 21 A. Correct.  
 22 Q. And you simply said, move out of the way, is  
 23 that right?  
 24 MR. TAMARKIN: I don't know if that's the

Page 24

1 testimony. The testimony is he pushed people out of  
 2 the way.  
 3 Q. You pushed people out of the way?  
 4 A. Yeah.  
 5 Q. Who'd you push out of the way?  
 6 A. The first person I saw.  
 7 Q. Who was that?  
 8 A. Might have been Jason and --  
 9 MR. TAMARKIN: Don't guess, if you don't know.  
 10 A. I don't know who the other person was.  
 11 Q. Okay. What'd they do when you pushed them out  
 12 of the way?  
 13 A. They stood back.  
 14 Q. They what?  
 15 A. Stood back.  
 16 Q. Stood back. Okay. Then what happened?  
 17 A. Bob came out yelling at us.  
 18 Q. "Yelling at us," meaning everyone?  
 19 A. Me and my uncle.  
 20 Q. And how do you know that he was yelling at Jeff  
 21 Denton and Andre Tucker?  
 22 A. Because he said our names.  
 23 Q. What'd he say?  
 24 A. He said, I'm tired of all this stuff going on,

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1 yeah, just get back to work, Andre and Jeff, get back to  
 2 work.  
 3 Q. And he didn't say anything about -- didn't say  
 4 to Jeff Watts, Mark Fry, Scott Dick, Jason Dick, or Harry  
 5 that they needed to get back to work?  
 6 A. He didn't say anything to them.  
 7 Q. So he singled you and Jeff Denton out and said  
 8 Jeff Denton and Andre Tucker, get back to work?  
 9 A. Yes.  
 10 Q. Didn't tell these other guys to get back to  
 11 work?  
 12 A. No.  
 13 Q. And it was obvious that none of you people were  
 14 working at the time, correct?  
 15 A. What?  
 16 Q. It was obvious that none of you were working at  
 17 the time?  
 18 A. I was on my way up to the front to get another  
 19 car.  
 20 Q. Okay. Well, from Bob Branigan's observation,  
 21 Jeff Denton wasn't doing anything in a work fashion, was  
 22 he?  
 23 A. Yes.  
 24 Q. How? What was he doing?

7 (Pages 22 to 25)

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1 A. In his eyes or my eyes?  
 2 Q. Your eyes.  
 3 A. In my eyes, he was taking back the thing that  
 4 he's supposed to do after he finished a car. It's a piece  
 5 of paper.  
 6 Q. Okay. What about Jeff Fry, Mark -- I'm sorry,  
 7 Jeff Watts, Mark Fry and Scott Dick and Jason Dick. Was it  
 8 obvious that they were not working?  
 9 A. Yes.  
 10 Q. And how was it obvious that they were not  
 11 working?  
 12 A. They stopped what they was doing to come and  
 13 bother him.  
 14 Q. Bother Jeff Denton?  
 15 A. Yes.  
 16 Q. Okay. And even though it was obvious that Jeff  
 17 Watts, Mark Fry, Scott Dick, Jason Dick and Harry were not  
 18 working, you are telling me that Bob Branigan singled you,  
 19 Andre Tucker and Jeff Denton, out as not working, is that  
 20 right?  
 21 MR. TAMARKIN: Objection. Asked and answered,  
 22 at least twice. You can answer one more time.  
 23 A. Yes.  
 24 Q. Okay. And what did he then do? Told you to

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1 A. I didn't say a word.  
 2 Q. So you didn't at any time say any cuss words  
 3 over this ten-minute period? You did not at any time over  
 4 this ten-minute period say any cuss words?  
 5 A. I didn't speak until Bob came.  
 6 Q. All right. Why was Bob going upstairs?  
 7 A. I don't know.  
 8 Q. When you say "upstairs," what do you mean?  
 9 A. Upstairs where they make the checks and all the  
 10 paperwork and all the stuff.  
 11 Q. Okay. Do you know why Bob was going up there?  
 12 A. That ain't my business to know.  
 13 Q. Okay. When he came back down and he said he  
 14 overheard your uncle's voice, brought you in his office,  
 15 and terminated you, what happened then?  
 16 A. No. That's not what I said.  
 17 Q. What did you say?  
 18 A. I said someone went upstairs and said they were  
 19 bothering my uncle, and when he came down, he heard my  
 20 uncle's loud voice, so he came and made us come in there  
 21 and fired us.  
 22 Q. How'd he fire you?  
 23 A. He said, you're out of here, get out of here.  
 24 So I went and got in my car. And he blocked my car off,

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1 get back to work, is that right?  
 2 A. Like I said, he said get back to work, I'm not  
 3 trying to hear all this crazy stuff, I got to go upstairs.  
 4 Q. Okay. Then what happened after that?  
 5 A. He went upstairs. As soon as -- they came back  
 6 and started bothering him again. And they heard him with a  
 7 high tone because he's got a loud voice. And he claims he  
 8 heard us from upstairs. Someone went up there and told him  
 9 they were down there. And then he called us in the office  
 10 and told us we were fired.  
 11 Q. Called you -- called Andre Tucker -- Bob  
 12 Branigan called Andre Tucker and Jeff Denton into the  
 13 office and fired you?  
 14 A. Yes.  
 15 Q. Now, any time during -- how long did this all  
 16 take place, this incident?  
 17 A. From the time he went upstairs, he was upstairs  
 18 probably ten minutes. And then he came back down, fired us  
 19 and followed me to my car.  
 20 Q. So in this ten-minute period, were you using  
 21 cuss words at all?  
 22 A. I didn't say a word.  
 23 Q. Were you saying, listen, mother fuckers, you're  
 24 not going to intimidate Jeff Denton?

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1 wouldn't move from in front of my car.  
 2 Q. So he said to both you and Jeff Denton, you're  
 3 out of here, you're fired?  
 4 A. Yeah.  
 5 Q. Right?  
 6 A. Yeah.  
 7 Q. Did your uncle, Jeff Denton, protest in any  
 8 way?  
 9 A. We put on our stuff and went to my car.  
 10 Q. Okay. Your uncle, Jeff Denton, was driving  
 11 with you?  
 12 A. I was driving.  
 13 Q. Okay. You were driving and he was a passenger  
 14 in your vehicle, is that right?  
 15 A. Yes.  
 16 Q. True?  
 17 A. True.  
 18 Q. Your uncle, Jeff Denton, didn't have a car at  
 19 the time?  
 20 A. No.  
 21 Q. Okay. So you went and got in your car which  
 22 was in the back behind the shop, is that right?  
 23 A. Correct.  
 24 Q. Your uncle is in the passenger seat, right?

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 A. He didn't even get a chance to get in the car 2 yet. 3 Q. Okay. You're in the car. You got the car -- 4 the engine running? 5 A. No, I -- no. 6 Q. Who blocks you? 7 A. Who blocks me? 8 Q. Who blocks your car? 9 A. Bob Branigan. 10 Q. How'd he block your car? 11 A. Same way you block any car, stand in front of 12 it. 13 Q. Okay. He didn't put another car in front of 14 it, he stood in front of it? 15 A. Yeah. 16 Q. And what was he saying? 17 A. He said, you know, I had to do this, you guys 18 get too emotional, you should have let me handle it. 19 Q. Okay. What was your response? 20 A. I said, man, you fired me, I don't want to hear 21 that shit, I'm going to leave. 22 Q. So you say, hey, man, you fired me, I don't 23 want to hear that shit, and we're leaving? 24 A. No, I said I don't want to hear that shit, I'm</p>	<p style="text-align: right;">Page 32</p> <p>1 me handle all this stuff. I waved him off. I didn't want 2 to hear that stuff. 3 Q. Okay. And did you eventually leave? 4 A. Yeah, when he let go of my car. I didn't want 5 to drag him. 6 Q. Huh? 7 A. I said, yeah, when he let go of my car. I'm 8 not going to drag him. I ain't got time for that drama. 9 Q. And then you leave, correct? 10 A. Yeah. 11 Q. And then your belief at that point is that 12 you're fired, right? 13 A. Okay. 14 Q. Okay. Who contacts you next from Columbia 15 Oldsmobile? 16 A. Probably a secretary or Karl Stewart; either 17 one of them. I don't know. 18 Q. And how were you contacted? 19 A. On the phone. 20 Q. Huh? 21 A. On the phone. 22 Q. And what was the contact about? 23 A. Said that they going to leave us off for two or 24 three days and then come back and talk to him.</p>
<p style="text-align: right;">Page 31</p> <p>1 leaving. 2 Q. Okay. And does he let you leave? 3 A. No, we was out there for almost ten minutes. 4 He wouldn't move from in front of my car. Then when he 5 moved from in front of my car, he held onto my door and 6 tried to talk through the door. 7 Q. Why wouldn't he leave in front of your car? 8 A. I don't know the reasons. I don't know. 9 Q. What was he saying? 10 A. He said, if you need any references call -- 11 leave my name. 12 Q. Okay. What else did he say? 13 A. He just kept talking, rambling. I wasn't 14 listening to it. 15 Q. And then when you started to leave, you said he 16 held onto your car door? 17 A. I didn't -- I wasn't leaving yet. I was 18 starting up my car. And he came over to the side and was 19 holding onto the door and wouldn't let my uncle close the 20 door and was still trying to talk through the door. 21 Q. Okay. And what was he saying? 22 A. He was just rambling, man. Just saying -- like 23 I told you, I could be a reference for you, I didn't want 24 to do this, but you guys get too emotional, I told you, let</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Come back and talk to whom? 2 A. Karl Stewart. 3 Q. Okay. Did you do that? 4 A. Yeah. 5 Q. Okay. Did you come back and have a 6 conversation with Karl Stewart? 7 A. Yeah. 8 Q. And what was the conversation about? 9 A. About that Bob fired us unjustly. He said that 10 Bob gets too emotional. And he told Bob, you shouldn't 11 have fired them without my authorization. 12 Q. Without whose authorization? 13 A. His. 14 Q. Karl Stewart's? 15 A. Yeah. 16 Q. And did you understand then you were -- you 17 were getting your job back? 18 A. That's what he said. 19 Q. And did you lose any pay as a result of this 20 incident? 21 A. They paid us for that, I think. 22 Q. So you were off three days or thereabouts, but 23 got paid for those days, is that right? 24 A. That's what he said.</p>

9 (Pages 30 to 33)

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1 And I did like this, threw it back to him.  
 2 Q. And what did he say?  
 3 MR. TAMARKIN: I think we've covered in it the  
 4 last deposition.  
 5 MR. LANGENBAHN: I don't think so.  
 6 MR. TAMARKIN: I think we did.  
 7 Q. What did he say?  
 8 A. He didn't say no more. He saw my back. I  
 9 left.  
 10 Q. He what?  
 11 A. He saw my back. I left.  
 12 Q. You turned around and left?  
 13 A. I got up and left.  
 14 Q. Okay. He told you you were terminated,  
 15 correct? And that's what this document says, true? Karl  
 16 Stewart told you you were being terminated?  
 17 A. That's what it says.  
 18 Q. He told you you were being terminated because  
 19 of your continued harassment and threatening of fellow  
 20 employees?  
 21 A. That's what he believed.  
 22 Q. He told you that, correct?  
 23 A. That's what he believed.  
 24 Q. And that's what Exhibit 7 says, too, correct?

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1 A. That's what he believed.  
 2 Q. And did you at any time oppose that or object  
 3 to it and say, I have not threatened anybody, they have  
 4 threatened me?  
 5 A. He didn't want to hear that shit.  
 6 Q. You didn't say anything to him, right?  
 7 A. I did.  
 8 Q. What did you tell him?  
 9 A. I said, Gary told me he'll have a whole bunch  
 10 of Iron Horsemen come up here and kill me. He said, I'll  
 11 bring my Beretta and blow your fucking brains out in front  
 12 of everybody.  
 13 Q. Bring my what?  
 14 A. Beretta.  
 15 Q. What's a Beretta?  
 16 A. A gun.  
 17 Q. Okay. And so Gary told you that?  
 18 A. Yeah.  
 19 Q. Okay. And did you tell that to Karl Stewart?  
 20 A. He didn't want to hear that.  
 21 Q. Well, you didn't tell him that, right?  
 22 A. I did tell him that.  
 23 Q. Well, when you say he didn't want to hear it,  
 24 it implies to me you didn't tell him.

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1 A. He didn't want to hear that. That's all he  
 2 wanted. He wanted to see me sign this and leave.  
 3 Q. You refused to sign it, right?  
 4 MR. TAMARKIN: Objection. Asked and answered.  
 5 You are harassing him now.  
 6 Q. Did you tell him about the fact that Gary  
 7 Uhlfelder was threatening you? Did you tell him that?  
 8 A. Again, I told you, yes. But he did not want to  
 9 hear that.  
 10 Q. Okay. But he heard it, in any event, right?  
 11 A. I would think so, yeah. He ain't got a hearing  
 12 aid.  
 13 Q. How long did this meeting take place in Karl  
 14 Stewart's office?  
 15 A. It didn't take long because I left.  
 16 Q. Well, five minutes, ten minutes?  
 17 A. Five, ten minutes.  
 18 Q. Did you tell him about anything else, any other  
 19 threats that were made by any other employees?  
 20 A. He didn't want to hear it. I ain't got time to  
 21 waste my breath.  
 22 Q. So you didn't tell him about any other threats?  
 23 A. I told him once before, and there ain't no  
 24 sense in me saying it again. I ain't going to waste my

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1 breath.  
 2 Q. What was once before?  
 3 A. The time we got hired back.  
 4 Q. Back in March?  
 5 A. Exactly.  
 6 Q. You were then escorted by Jim Peters out to  
 7 your car?  
 8 A. No, he followed me and said, get the fuck out  
 9 of here.  
 10 Q. Okay. And did you respond in any way?  
 11 A. I said, man, get away from me, I don't want to  
 12 hear that shit. I took off my uniform and went in there  
 13 and told my uncle I was fired and went to my car. And then  
 14 I went straight out to my car and seen Bob back there  
 15 washing cars.  
 16 They had Gary stay out for two or three hours  
 17 while they -- you know, I guess they thought I was going to  
 18 do something to Gary.  
 19 Q. So Gary was told to leave for a couple of  
 20 hours?  
 21 A. Yeah.  
 22 Q. And Gary was off -- while Gary was off the job,  
 23 Bob Branigan was the person who was washing the cars?  
 24 A. He was at lunch. They sent him on an extended

16 (Pages 58 to 61)

<p style="text-align: right;">Page 98</p> <p>1 He said, I got a noose for your ass.</p> <p>2 Q. When you say "passing gas," what do you mean?</p> <p>3 A. Just coming next to him, just passing gas.</p> <p>4 Q. And Jeff said get away from him?</p> <p>5 A. He said, take that nasty shit back over there.</p> <p>6 Q. And then Kenny said, I got a noose for you?</p> <p>7 A. And he just kept coming back over there</p> <p>8 yelling, noose, noose, noose, noose, noose, noose, noose,</p> <p>9 noose, noose.</p> <p>10 Q. Okay. Anybody else? Any other witnesses?</p> <p>11 A. Rocky.</p> <p>12 MR. TAMARKIN: You already took Rocky's</p> <p>13 deposition. You know what he's going to say.</p> <p>14 Q. What's Rocky going to say?</p> <p>15 A. That they had turned out the light on Jeff and</p> <p>16 lit the floor while he was on the commode.</p> <p>17 Q. Turned off --</p> <p>18 A. The light.</p> <p>19 Q. -- the light on Jeff Denton?</p> <p>20 A. In the bathroom.</p> <p>21 Q. Okay.</p> <p>22 A. While he was on the commode?</p> <p>23 Q. Uh-huh.</p> <p>24 A. And sprayed lithium grease on his feet and sat</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Jeff did?</p> <p>2 A. Yes.</p> <p>3 Q. When did that happen, if you know?</p> <p>4 A. It happened way before all that -- before the</p> <p>5 gun and all that stuff.</p> <p>6 Q. Okay. You were working at Columbia Olds,</p> <p>7 right?</p> <p>8 A. Yeah.</p> <p>9 Q. But you didn't actually witness any of that</p> <p>10 happening, right?</p> <p>11 A. Yeah, I witnessed that. I'm the one that</p> <p>12 turned back on the light.</p> <p>13 Q. Okay. You --</p> <p>14 A. I seen the lights off, and I turned it back on.</p> <p>15 I just seen a blaze in there, and they came out laughing.</p> <p>16 Q. Okay. Did you see Mark Fry and Jeff Watts do</p> <p>17 this?</p> <p>18 A. Yes.</p> <p>19 Q. So you witnessed it, too?</p> <p>20 A. Yes.</p> <p>21 Q. Rocky is going to testify to it, but you also</p> <p>22 are going to testify to it, right?</p> <p>23 A. Yes, yes.</p> <p>24 Q. With all these things that happened, did you</p>
<p style="text-align: right;">Page 99</p> <p>1 it on fire.</p> <p>2 Q. On his shoes, right?</p> <p>3 A. Yes.</p> <p>4 Q. And sat it on fire?</p> <p>5 A. Yes.</p> <p>6 Q. Right?</p> <p>7 A. Yes.</p> <p>8 Q. And this is on Jeff, right?</p> <p>9 A. Yes.</p> <p>10 Q. And who is "they" again?</p> <p>11 A. Mark Fry, Jeff Watts.</p> <p>12 Q. Okay. So Rocky told you that this is what he</p> <p>13 saw, or he saw that Jeff was in the bathroom on the commode</p> <p>14 and Mark Fry and Jeff Watts turned off the light and then</p> <p>15 sprayed lithium grease on his shoes and lit the lithium</p> <p>16 grease?</p> <p>17 A. Yes. I turned on the light. I turned it back</p> <p>18 on --</p> <p>19 Q. Okay.</p> <p>20 A. -- after that happened.</p> <p>21 Q. And what happened, if you know? Anything</p> <p>22 happen?</p> <p>23 A. He came out. He came out trying to put the</p> <p>24 fire out with his pants down.</p>	<p style="text-align: right;">Page 101</p> <p>1 and Jeff Denton ever go to Karl Stewart and complain about</p> <p>2 these things happening?</p> <p>3 A. Bob Branigan, Jim Peters.</p> <p>4 Q. Right. So you didn't go to Karl Stewart,</p> <p>5 right?</p> <p>6 A. No.</p> <p>7 Q. But you did go to Bob Branigan and Jim Peters?</p> <p>8 A. Yes.</p> <p>9 Q. And you complained about all these things</p> <p>10 happening, is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Did you go down -- did you go to them at one</p> <p>13 particular moment and tell them about all this? Do you</p> <p>14 recall that?</p> <p>15 A. Every day.</p> <p>16 Q. So your position is you would be complaining</p> <p>17 every day to Bob Branigan and/or Jim Peters, is that right?</p> <p>18 A. Yes.</p> <p>19 Q. You wouldn't complain to both of them at the</p> <p>20 same time, would you?</p> <p>21 A. Uh-uh.</p> <p>22 Q. You would see Jim Peters, complain to him; see</p> <p>23 Bob Branigan and complain to him --</p> <p>24 A. Yes.</p>

26 (Pages 98 to 101)



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1 Q. -- that these things were going?  
 2 A. Yes.  
 3 Q. That Mark Fry and Jeff Watts were pulling these  
 4 stunts or tricks or whatever on Jeff Denton, right?  
 5 A. Yes.  
 6 Q. And what was -- what was the response by Bob  
 7 Branigan and/or Jim Peters?  
 8 A. Bob Branigan said he'll deal with it. And Jim  
 9 Peters said, Jeffrey, just let me handle it, just let me  
 10 handle it. Then Jim Peters said if he ever catches the  
 11 mother fuckers writing that on the wall again, their ass is  
 12 out of there.  
 13 Q. He said that to you or he said that to the  
 14 other guys?  
 15 A. Everybody --  
 16 MR. DENTON: At a meeting.  
 17 A. -- at the meeting.  
 18 MR. LANGENBAHN: Okay. I got some more. So  
 19 you wanted to take --  
 20 MR. TAMARKIN: Yeah, let's take an hour or 45  
 21 minutes.  
 22 MR. LANGENBAHN: 45 minutes, okay.  
 23 MR. TAMARKIN: 1:00.  
 24 (A recess was taken from 12:13 to 1:00.)

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1 Q. Mr. Tucker, when we concluded for lunch, you  
 2 were talking about Rocky as a witness. And you gave me  
 3 some information about what Rocky was going to testify  
 4 about.  
 5 A. Yeah.  
 6 Q. Any other witnesses that you -- you believe  
 7 will testify at the trial of this matter on your behalf?  
 8 A. I said Linda.  
 9 Q. Linda, right.  
 10 A. That's about it, I think.  
 11 Q. Okay. Relative to Rocky, do you know what his  
 12 real name is?  
 13 A. Richard Fredericks, I think.  
 14 Q. Why is -- why is he called Rocky?  
 15 A. Nickname.  
 16 Q. What's that?  
 17 A. Nickname.  
 18 Q. Why is his nickname that? Do you know?  
 19 A. He said it's from boxing or something.  
 20 Q. That's what he said, right?  
 21 A. Yeah.  
 22 Q. What was Rocky's position at Columbia Olds?  
 23 A. Shop janitor.  
 24 Q. Was he the subject of any pranks that were

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1 played upon him by people at the shop?  
 2 A. Yes.  
 3 Q. And what pranks did you see that people at the  
 4 shop played on Rocky?  
 5 A. Lithium grease.  
 6 Q. What about lithium grease?  
 7 A. They put it all over his clothes, on his new  
 8 shoes, brake fluid. I think he got his shoes lit before,  
 9 too, but it was with lithium grease, though. Signs.  
 10 Q. What about signs?  
 11 A. Said he would die before he won Publisher's  
 12 Clearinghouse.  
 13 Q. What's that now?  
 14 A. They said he would die before -- an old broke  
 15 man before he would win Publisher's Clearinghouse. Signs  
 16 on his back.  
 17 Q. What's the issue about Publishing  
 18 Clearinghouse? What's that issue?  
 19 A. I guess he sent in magazine things and they  
 20 said he was closer to winning, some type scam.  
 21 Q. Some type of scam?  
 22 A. Yeah, you know, Publisher's Clearinghouse, get  
 23 your head hyped for six to ten million dollars, and you  
 24 think you're going to win it, but you don't never win it.

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1 Q. Did Rocky ever boast that he was going to win  
 2 this Clearinghouse?  
 3 A. Yeah.  
 4 Q. So he said he was going to win it?  
 5 A. Yes.  
 6 Q. Did he say he was leaving work to go home to  
 7 pick up his paycheck -- not his paycheck, pick up his  
 8 winning check?  
 9 A. He said he was waiting on his wife to call as  
 10 soon as Publisher's Clearinghouse called.  
 11 Q. When Rocky would talk to people about this, he  
 12 believed he was going to win the money?  
 13 A. Yes.  
 14 Q. What did people then respond to him?  
 15 A. Said he was a dumb old fool.  
 16 Q. Did you ever tell him that?  
 17 A. Uh-uh. I just told him -- I said, I done had  
 18 those before and nobody -- nobody wins.  
 19 Q. So you told him that nobody wins?  
 20 A. Yeah.  
 21 Q. What did Rocky say to that?  
 22 A. He said oh, yeah, oh, yes, we do, I'm going to  
 23 win.  
 24 Q. So he was sure he was going to win?

27 (Pages 102 to 105)

Page 106

1 A. Yes.  
 2 Q. But you told him that you didn't think that he  
 3 would win?  
 4 A. Yes.  
 5 Q. And so did the rest of the people at the shop,  
 6 is that right?  
 7 MR. TAMARKIN: Objection.  
 8 Q. So did the rest of the people at the shop, they  
 9 told him he wasn't going to win?  
 10 MR. TAMARKIN: You can answer if you know.  
 11 A. They said, yes.  
 12 Q. Okay. Any other pranks you're aware of that  
 13 were pulled on Rocky?  
 14 A. Putting tape all over him while he was asleep,  
 15 lithium grease every day.  
 16 Q. Anything else?  
 17 A. Uh-uh.  
 18 Q. Did -- would Rocky -- did he sing a song?  
 19 A. I don't know.  
 20 Q. Not aware of. Did he ever bring in posters, 16  
 21 tons, what have you got, another day older, deeper in debt.  
 22 You ever see that?  
 23 A. Uh-uh, I didn't see that poster.  
 24 Q. Any posters that he was going to win the

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1 Publishing -- Publish House -- Publishing Clearing  
 2 millions?  
 3 A. Yeah.  
 4 Q. He did bring a poster in saying that?  
 5 A. Yeah, that's the poster that they wrote over  
 6 and put, you dumb old fool and other stuff on there.  
 7 Q. Did you witness the incident involving Jeff  
 8 Denton that occurred in February 2002 when he was in the  
 9 break room and carbon monoxide?  
 10 A. (Nodding head.)  
 11 Q. You were present for that?  
 12 A. I came as they were spraying the -- the carb  
 13 cleaner in there. And I went in there. I seen Scott Dick  
 14 coming out. I said, what's so funny. And I seen all this  
 15 smoke coming out. He said, you had to be in there to see  
 16 it. And I ran in there, and he was coming out of there.  
 17 Q. Who was coming out of there?  
 18 A. Jeffrey. And I just -- that's when I got mad.  
 19 And I kicked over the thing that they were spraying the  
 20 stuff in there.  
 21 Q. So Jeff was in the break room?  
 22 A. Yeah.  
 23 Q. And that's within the shop? It's inside the  
 24 shop?

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1 A. It's in the cafeteria, off of the shop.  
 2 Q. And you came in after the fact. Is that what  
 3 you're saying?  
 4 A. No.  
 5 Q. You came in right at the time it was happening?  
 6 A. Yes.  
 7 Q. What was happening?  
 8 A. The hose was already hooked up to the thing  
 9 that was blowing out cold air. I saw Mark Fry spraying the  
 10 carb cleaner into -- the carbon monoxide, and Jeff Watts  
 11 was revving the engine.  
 12 Q. So you saw -- you saw Jeff Fry do what?  
 13 A. Mark Fry.  
 14 Q. Mark Fry do what?  
 15 A. Spray carb cleaner into the carburetor to  
 16 induce and make more smoke, while Jeff Watts --  
 17 MR. DENTON: With the hose --  
 18 A. -- made -- the hose was already hooked up, but  
 19 while Jeff Watts revved the engine.  
 20 Q. Okay.  
 21 A. And I asked Scott Dick, what's so funny. And  
 22 he said, you had to be there to see it. And then I ran in  
 23 there where all the smoke was and my uncle was coming out.  
 24 That's when I told Bob, this shit got to stop now.

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1 Q. Okay. And you saw that there was a hose hooked  
 2 up from the carburetor, the pipe that comes out of the rear  
 3 of the car?  
 4 A. Yes.  
 5 Q. And that carb -- that hose then went into there  
 6 break room?  
 7 A. Into this, like, air thing that circulates air.  
 8 It's like a big giant box that blows out cold air. They  
 9 stuck it in the back of the air so it would blow in there  
 10 faster and much more in there.  
 11 Q. Into the break room?  
 12 A. Yes.  
 13 Q. How was the break room sealed off?  
 14 A. It's -- it's just a door.  
 15 Q. Okay. Who was in the break room?  
 16 A. Just Jeff.  
 17 Q. Nobody else?  
 18 A. Nobody else.  
 19 Q. What was Jeff doing in the break room, as far  
 20 as you know?  
 21 A. Bob told him to go in there and lay down, since  
 22 his stomach was bothering him.  
 23 Q. So while he was in there laying down, that's  
 24 when they did this prank?

28 (Pages 106 to 109)



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1 violated company policy --  
 2 A. Which ones?  
 3 Q. Yeah, and what was the incident.  
 4 A. Jeff Watts, Mark Fry, Tom -- Tom Carey, Jason  
 5 Dick, Scott Dick.  
 6 MR. TAMARKIN: I'm going to object. He's  
 7 already testified to all this.  
 8 Q. Okay. What did these people do and they were  
 9 not disciplined. What did they do?  
 10 MR. TAMARKIN: He didn't say they weren't  
 11 disciplined. He said that they were treated  
 12 differently.  
 13 Q. Okay. How were they treated differently?  
 14 A. How were they treated differently?  
 15 Q. Yeah.  
 16 A. Nothing happened to them.  
 17 Q. So you say they would do something, which you  
 18 felt was in violation of company policy, and nothing was  
 19 done to them?  
 20 A. Correct.  
 21 Q. Okay. Well, what did they do to violate  
 22 company policy?  
 23 A. Harassed my uncle.  
 24 Q. Now, did they ever harass you? "They," being

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1 Watts, Fry, Jason Dick and Scott Dick. Did they ever  
 2 harass you?  
 3 A. Harass me? They just made comments to me.  
 4 Q. But they didn't harass you?  
 5 A. Not really.  
 6 Q. Okay. What comments did they make to you?  
 7 A. Jason said that he -- I have to be dealt with  
 8 if I say something else to his brother pertaining to my  
 9 uncle.  
 10 Q. Jason said that you --  
 11 A. Yes.  
 12 Q. -- would have to be dealt with?  
 13 A. Yeah, and you know what I mean.  
 14 Q. If you said something to your brother?  
 15 A. To his brother.  
 16 Q. Who's his brother?  
 17 A. Scott.  
 18 Q. Okay. Scott Dick, right?  
 19 A. Yeah.  
 20 Q. Any other comments?  
 21 A. Any other comments towards me?  
 22 Q. Any other comments that were made by Jeff  
 23 Watts, Fry, Mark Fry, Jason Dick, Scott Dick, that you felt  
 24 were of a discriminatory nature towards you or harassing

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1 nature towards you?  
 2 A. Just my -- messed with my uncle in front of me.  
 3 Q. So comments were really directed towards your  
 4 uncle, right, Jeff Denton?  
 5 A. I felt they were both directed towards me. I  
 6 was standing there.  
 7 Q. But they referred to Jeff Denton, correct?  
 8 MR. TAMARKIN: We've went through this. I'm  
 9 going to object. You're being argumentative.  
 10 You can go on.  
 11 Q. Correct?  
 12 MR. TAMARKIN: You can answer, but you can't  
 13 ask that question again, Jay.  
 14 MR. LANGENBAHN: I'm not.  
 15 MR. TAMARKIN: You're just wasting a lot of  
 16 time. You've only got seven hours.  
 17 Q. They were directed to -- comments that were  
 18 made were directed to Jeff Denton, correct?  
 19 A. It could have been directed towards me, too.  
 20 Q. And how could they have been directed towards  
 21 you, too?  
 22 A. They said the word "black," black hillbilly,  
 23 so --  
 24 Q. Okay.

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1 A. There was only two blacks over there. Who  
 2 could they be talking to?  
 3 MR. LANGENBAHN: Okay. I have nothing further  
 4 of this witness.  
 5  
 6

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ANDRE L. TUCKER

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 DEPOSITION CONCLUDED AT 1:38 P.M.  
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32 (Pages 122 to 125)

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